

functions or a Tier 1 subcontractor exercised no control; or

(4) the Commandant has determined that the procurement was awarded in a manner consistent with Federal acquisition laws and regulations promulgated under those laws, including the Federal Acquisition Regulation.

(Added Pub. L. 111–281, title IV, § 402(a), Oct. 15, 2010, 124 Stat. 2935, § 564; amended Pub. L. 111–330, § 1(4), Dec. 22, 2010, 124 Stat. 3569; Pub. L. 112–213, title II, § 217(7), Dec. 20, 2012, 126 Stat. 1557; Pub. L. 114–328, div. A, title VIII, § 899(b)(1)(D), Dec. 23, 2016, 130 Stat. 2333; renumbered § 1105 and amended Pub. L. 115–282, title I, § 108(b), title III, § 304(d), Dec. 4, 2018, 132 Stat. 4208, 4245.)

Editorial Notes

REFERENCES IN TEXT

The Small Business Act, referred to in subsec. (a)(3), is Pub. L. 85–536, § 2(1 et seq.), July 18, 1958, 72 Stat. 384, which is classified generally to chapter 14A (§ 631 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 631 of Title 15 and Tables.

AMENDMENTS

2018—Pub. L. 115–282, § 108(b), renumbered section 564 of this title as this section.

Subsec. (c). Pub. L. 115–282, § 304(d), struck out subsec. (c) which related to acquisition of unmanned aerial systems.

2016—Subsec. (c). Pub. L. 114–328 added subsec. (c).

2012—Pub. L. 112–213 amended section generally. Prior to amendment, section related to prohibition on use of lead systems integrators and provided for certain exceptions to such prohibition.

2010—Pub. L. 111–330 amended Pub. L. 111–281, § 402(a), which enacted this section.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111–330, § 1, Dec. 22, 2010, 124 Stat. 3569, provided that the amendment made by section 1(4) is effective with the enactment of Pub. L. 111–281.

§ 1106. Required contract terms

(a) IN GENERAL.—The Commandant shall ensure that a contract awarded or a delivery order or task order issued for an acquisition of a capability or an asset with an expected service life of 10 or more years and with a total acquisition cost that is equal to or exceeds \$10,000,000—

(1) provides that all certifications for an end-state capability or asset under such contract, delivery order, or task order, respectively, will be conducted by the Commandant or an independent third party, and that self-certification by a contractor or subcontractor is not allowed;

(2) provides that the Commandant shall maintain the authority to establish, approve, and maintain technical requirements;

(3) requires that any measurement of contractor and subcontractor performance be based on the status of all work performed, including the extent to which the work performed met all performance, cost, and schedule requirements;

(4) specifies that, for the acquisition or upgrade of air, surface, or shore capabilities and

assets for which compliance with TEMPEST certification is a requirement, the standard for determining such compliance will be the air, surface, or shore standard then used by the Department of the Navy for that type of capability or asset; and

(5) for any contract awarded to acquire an Offshore Patrol Cutter, includes provisions specifying the service life, fatigue life, and days underway in general Atlantic and North Pacific Sea conditions, maximum range, and maximum speed the cutter will be built to achieve.

(b) PROHIBITED PROVISIONS.—

(1) IN GENERAL.—The Commandant shall ensure that any contract awarded or delivery order or task order issued by the Coast Guard does not include any provision allowing for equitable adjustment that is not consistent with the Federal Acquisition Regulations.

(2) EXTENSION OF PROGRAM.—A contract, contract modification, or award term extending a contract with a lead systems integrator—

(A) may not include any minimum requirements for the purchase of a given or determinable number of specific capabilities or assets; and

(B) shall be reviewed by an independent third party with expertise in acquisition management, and the results of that review shall be submitted to the appropriate congressional committees at least 60 days prior to the award of the contract, contract modification, or award term.

(c) INTEGRATED PRODUCT TEAMS.—Integrated product teams, and all teams that oversee integrated product teams, shall be chaired by officers, members, or employees of the Coast Guard.

(d) TECHNICAL AUTHORITY.—The Commandant shall maintain or designate the technical authority to establish, approve, and maintain technical requirements. Any such designation shall be made in writing and may not be delegated to the authority of the Chief Acquisition Officer established by section 308 of this title.

(Added Pub. L. 111–281, title IV, § 402(a), Oct. 15, 2010, 124 Stat. 2936, § 565; amended Pub. L. 111–330, § 1(4), Dec. 22, 2010, 124 Stat. 3569; Pub. L. 115–232, div. C, title XXXV, § 3533(f), Aug. 13, 2018, 132 Stat. 2321; renumbered § 1106 and amended Pub. L. 115–282, title I, §§ 108(b), 123(b)(2), Dec. 4, 2018, 132 Stat. 4208, 4240.)

Editorial Notes

AMENDMENTS

2018—Pub. L. 115–282, § 108(b), renumbered section 565 of this title as this section.

Subsec. (a). Pub. L. 115–232, § 3533(f)(1), struck out “awarded or issued by the Coast Guard after the date of enactment of the Coast Guard Authorization Act of 2010” after “\$10,000,000” in introductory provisions.

Subsec. (b)(1). Pub. L. 115–232, § 3533(f)(2), struck out “after the date of enactment of the Coast Guard Authorization Act of 2010” after “Coast Guard”.

Subsec. (d). Pub. L. 115–282, § 123(b)(2), substituted “section 308” for “section 56”.

2010—Pub. L. 111–330 amended Pub. L. 111–281, § 402(a), which enacted this section.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-330, §1, Dec. 22, 2010, 124 Stat. 3569, provided that the amendment made by section 1(4) is effective with the enactment of Pub. L. 111-281.

§ 1107. Extension of major acquisition program contracts

(a) **IN GENERAL.**—Notwithstanding section 1105(a)(2) of this title and section 2304¹ of title 10, and subject to subsections (b) and (c) of this section, the Secretary may acquire additional units procured under a Coast Guard major acquisition program contract, by extension of such contract without competition, if the Director of the Cost Analysis Division of the Department of Homeland Security determines that the costs that would be saved through award of a new contract in accordance with such sections would not exceed the costs of such an award.

(b) **LIMITATION ON NUMBER OF ADDITIONAL UNITS.**—The number of additional units acquired under a contract extension under this section may not exceed the number of additional units for which such determination is made.

(c) **DETERMINATION OF COSTS UPON REQUEST.**—The Director of the Cost Analysis Division of the Department of Homeland Security shall, at the request of the Secretary, determine for purposes of this section—

(1) the costs that would be saved through award of a new major acquisition program contract in accordance with section 1105(a)(2) for the acquisition of a number of additional units specified by the Secretary; and

(2) the costs of such award, including the costs that would be incurred due to acquisition schedule delays and asset design changes associated with such award.

(d) **NUMBER OF EXTENSIONS.**—A contract may be extended under this section more than once.

(Added Pub. L. 114-328, div. A, title VIII, §899(b)(1)(E), Dec. 23, 2016, 130 Stat. 2334, §579; renumbered §1107 and amended Pub. L. 115-282, title I, §§108(b), 123(b)(2), Dec. 4, 2018, 132 Stat. 4208, 4240.)

Editorial Notes

REFERENCES IN TEXT

Section 2304 of this title, referred to in subsec. (a), was repealed by Pub. L. 116-283, div. A, title XVIII, §§1801(d), 1881(a), Jan. 1, 2021, 134 Stat. 4151, 4293, effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law. Subsecs. (a) to (l) of section 2304 were transferred to various provisions in chapter 221 of this title, with the same effective date and conditions, by Pub. L. 116-283, div. A, title XVIII, §1811(c)(2)-(5), (d)(2)-(9), Jan. 1, 2021, 134 Stat. 4165-4170.

AMENDMENTS

2018—Pub. L. 115-282, §108(b), renumbered section 579 of this title as this section.

Subsecs. (a), (c)(1). Pub. L. 115-282, §123(b)(2), substituted “section 1105(a)(2)” for “section 564(a)(2)”.

§ 1108. Department of Defense consultation

(a) **IN GENERAL.**—The Commandant shall make arrangements as appropriate with the Secretary

¹ See References in Text note below.

of Defense for support in contracting and management of Coast Guard acquisition programs. The Commandant shall also seek opportunities to make use of Department of Defense contracts, and contracts of other appropriate agencies, to obtain the best possible price for assets acquired for the Coast Guard.

(b) **INTERSERVICE TECHNICAL ASSISTANCE.**—The Commandant shall seek to maintain a memorandum of understanding or a memorandum of agreement with the Secretary of the Navy to obtain the assistance of the Office of the Assistant Secretary of the Navy for Research, Development, and Acquisition, including the Navy Systems Command, with the oversight of Coast Guard major acquisition programs. The memorandum of understanding or memorandum of agreement shall, at a minimum, provide for—

(1) the exchange of technical assistance and support that the Assistant Commandants for Acquisition, Human Resources, Engineering, and Information technology may identify;

(2) the use, as appropriate, of Navy technical expertise; and

(3) the temporary assignment or exchange of personnel between the Coast Guard and the Office of the Assistant Secretary of the Navy for Research, Development, and Acquisition, including Naval Systems Command, to facilitate the development of organic capabilities in the Coast Guard.

(c) **TECHNICAL REQUIREMENT APPROVAL PROCEDURES.**—The Chief Acquisition Officer shall adopt, to the extent practicable, procedures modeled after those used by the Navy Senior Acquisition Official to approve all technical requirements.

(Added Pub. L. 111-281, title IV, §402(a), Oct. 15, 2010, 124 Stat. 2937, §566; amended Pub. L. 111-330, §1(4), Dec. 22, 2010, 124 Stat. 3569; Pub. L. 115-232, div. C, title XXXV, §3534, Aug. 13, 2018, 132 Stat. 2322; renumbered §1108, Pub. L. 115-282, title I, §108(b), Dec. 4, 2018, 132 Stat. 4208.)

Editorial Notes

AMENDMENTS

2018—Pub. L. 115-282 renumbered section 566 of this title as this section.

Subsec. (b). Pub. L. 115-232, §3534(1), substituted “maintain” for “enter into” in introductory provisions.

Subsec. (d). Pub. L. 115-232, §3534(2), struck out subsec. (d) which related to report on assessment of Coast Guard acquisition and management capabilities.

2010—Subsec. (d). Pub. L. 111-330, which directed the amendment of Pub. L. 111-281, §402(a), which enacted this section, by substituting “Coast Guard Authorization Act of 2010” for “Coast Guard Authorization Act for Fiscal Years 2010 and 2011” wherever appearing, was executed in subsec. (d) of this section as added by section 402(a) by making the substitution for text which read “Coast Guard Authorization Act for fiscal years 2010 and 2011”, to reflect the probable intent of Congress.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-330, §1, Dec. 22, 2010, 124 Stat. 3569, provided that the amendment made by section 1(4) is effective with the enactment of Pub. L. 111-281.